

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

DAVID GALVAN and GARRICK NAUMANN, §

Plaintiffs, §

VS. §

CIVIL ACTION NO. SA-23-CV-537-FB

EDDY ENTERPRISES, LLC d/b/a TEXAS §

TREE SERVICE and JERRY EDDY, §

Defendants. §

SCHEDULING ORDER

NOTE: It is this Court's usual practice to set an initial pretrial status conference in each case at the time the Scheduling Order is entered. However, due to this Court's current trial docket, no conference will be set at this time. This case may be set for an initial pretrial status conference at a later date if and when the Court becomes available.

*Pursuant to 28 U.S.C. § 636(c)(1), all full-time United States Magistrate Judges are authorized and empowered to try any civil case, jury or non-jury, with the consent of all parties to the lawsuit. Because of the crowded condition of the criminal docket in this District and the difficulty in reaching civil cases for trial, you may wish to consent to the trial of your case by a United States Magistrate Judge. If you wish to consent to a trial before a United States Magistrate Judge, your decision should be communicated to the United States District Clerk's Office, and you may indicate your consent on the attached form or request a form through the Clerk's Office. Your consent to trial by a United States Magistrate Judge must be voluntary and you are free to withhold your consent without suffering any adverse consequences. If all parties consent to trial of this case by a United States Magistrate Judge, this Court will enter an order referring the case to a United States Magistrate Judge for trial and entry of judgment. If the case has already been assigned and/or referred to a United States Magistrate Judge for pretrial matters and the parties consent to a trial before the United States Magistrate Judge, the trial will be before the United States Magistrate Judge already assigned to the case.*

The following dates are entered to control the course of this case:

1. The parties shall complete ADR (usually mediation) in compliance with Rule CV-88, by **December 18, 2023**. A motion objecting to ADR must be filed no later than **October 16, 2023**.

2. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties by **September 11, 2023**, and each opposing party shall respond, in writing, by **September 25, 2023**.

3. Subject to Western District of Texas Local Rule CV-15, the parties shall file all motions to amend or supplement pleadings or to join additional parties by **October 10, 2023**.

4. All parties asserting claims for relief shall file their designation of testifying experts, and shall serve on all parties, but not file the materials required by FED. R. CIV. P. 26(a)(2)(B) by **September 18, 2023**. Parties resisting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file the materials required by FED. R. CIV. P. 26(a)(2)(B) by **October 30, 2023**. All designations of rebuttal experts shall be designated within **14** days of receipt of the report of the opposing expert.

5. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, within **30** days of receipt of the written report of the expert's proposed testimony, or within **30** days of the expert's deposition, if a deposition is taken, whichever is later.


6. The parties shall complete all discovery on or before **December 18, 2023**. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

7. All dispositive motions shall be filed no later than **January 15, 2024**. Dispositive motions and responses to dispositive motions shall be limited to **20** pages in length. Replies, if any, shall be limited to **10** pages in length in accordance with Local Rule CV-7(e).

8. **The trial date will be determined at a later date by the Court.** The parties shall consult Local Rule CV-16(f)-(h) regarding matters to be filed in advance of trial. At the time the trial date is set, the Court will also set the deadline for the filing of matters in advance of trial.

It is so ORDERED.

SIGNED this 17th day of August, 2023.

  
\_\_\_\_\_  
FRED BIERY  
UNITED STATES DISTRICT JUDGE

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CONSENT TO PROCEED TO TRIAL BEFORE A  
UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. § 636(c), the parties to the above captioned civil matter hereby waive their rights to proceed before a judge of the United States District Court and consent to have a United States Magistrate Judge conduct any and all further proceedings in the case, including the trial, and order the entry of judgment. Any appeal shall be taken to the United States Court of Appeals for this judicial circuit, in accordance with 28 U.S.C. § 636(c)(3).

\_\_\_\_\_  
Party By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Party By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Party By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Party By: \_\_\_\_\_  
Attorney

APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
FRED BIERY  
UNITED STATES DISTRICT JUDGE

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ADVISORY TO THE CLERK BY PLAINTIFF(S)

In accordance with the Court's previous order requiring the submission of a notice regarding the election of proceeding before a United States Magistrate Judge;

Please be advised that the below named plaintiff(s) elect(s) NOT to conduct the trial in this case before a United States Magistrate Judge:

\_\_\_\_\_  
Plaintiff By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Plaintiff By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Plaintiff By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Plaintiff By: \_\_\_\_\_  
Attorney

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ADVISORY TO THE CLERK BY DEFENDANT(S)

In accordance with the Court's previous order requiring the submission of a notice regarding the election of proceeding before a United States Magistrate Judge;

Please be advised that the below named defendant(s) elect(s) NOT to conduct the trial in this case before a United States Magistrate Judge:

\_\_\_\_\_  
Defendant By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Defendant By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Defendant By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Defendant By: \_\_\_\_\_  
Attorney